

CHANGEU.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

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SUBJ: PERSONNEL SECURITY PROGRAM

1. **PURPOSE.** This change transmits revised pages to Appendix 1, Glossary; Appendix 9, Investigating Contractor Employees; Appendix 10, National Industrial Security Program; and adds a new Appendix 13, Quality Assurance Plan.

2. **EXPLANATION OF CHANGES.** This change establishes uniform criteria for updating the Contractor Security Program. The additional information to this program will ensure that the employment of contractor personnel on FAA contracts will promote the efficiency of the FAA and is in the interest of national security. The change consists of investigative requirements for contractor employees and establishes a quality assurance plan. This change:

- a. Contains an updated table of contents.
- b. Updates and expands the glossary in appendix 1.
- c. Expands appendix 9 to include the responsibilities of the Contracting Officer's Technical Representative and adds new responsibilities and procedures on contract workers in leased facilities.
- d. Expands appendix 10 to include new information on the background of the program and new procedures on classified contracting processing.
- e. Adds Appendix 13, Quality Assurance Plan, which contains new information on this plan.

3. **DISPOSITION OF TRANSMITTAL.** After filing the attached pages, this transmittal should be retained.

PAGE CONTROL CHART

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| v | 2/5/98 | v | 2/5/98 |
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APPENDIX 1. GLOSSARY

* ACCESS. The ability to enter physically or pass through an FAA area or facility; or having the physical ability or authority to obtain FAA sensitive information, materials, or resources; or the ability to obtain FAA sensitive information by technical means, including the use of a computer, modem, the Internet, a local or wide area network (LAN or WAN), etc. When used in conjunction with classified information, access is the ability, authority, or opportunity to obtain knowledge of such information, materials, or resources. *

ACCESS AUTHORIZATION. Certification that a person is currently authorized to have access to classified information at specific levels.

* ACCESS NATIONAL AGENCY CHECK AND INQUIRIES (ANACI). An investigation for the purpose of making an eligibility determination for access to classified national security information. This investigation consists of searches of the Office of Personnel Management's (OPM) Security and Suitability Investigations Index (SII), Defense Clearance and Investigations Index (DCII), the Federal Bureau of Investigation's (FBI) Identification Division, and the FBI's Records Management Division; and written inquiries and record searches covering specific areas of a person's background during the most recent 5 years. *

APPOINTING/APPROVING OFFICIAL. The individual delegated the authority to effect appointments, reassignments, promotions, separations, or similar personnel actions regarding FAA employees or applicants.

* AUTOMATED INFORMATION SYSTEM (AIS). An assembly of computer or telecommunications equipment, facilities, personnel, software, and procedures configured for the purpose of communicating, storing, calculating, computing, summarizing, or retrieving data and information with a minimum of human intervention.

a. General Purpose. An interconnected set of information resources that share a common functionality under the same direct management control, including software, host computers, and networks that provide support for a variety of users and applications.

b. Special Purpose. Computer or telecommunications systems that require special management attention because of their importance to the agency's mission; their high maintenance, development, or operating costs; or their significant role in dealing with the agency's programs, finances, property, or other resources. *

BACKGROUND INVESTIGATION. Any personnel investigation conducted to meet personnel security program requirements.

BACKGROUND INVESTIGATION (BI). An investigation consisting of a National Agency Check (NAC), credit search, personal interviews of subject and sources, written

inquiries, and record searches covering specific areas of a person's background during the most recent 5 years, and additional record searches during the most recent 7 years.

CLASSIFIED INFORMATION. Official information or material that requires protection in the interest of national security and is classified for such purpose by appropriate classification authority in accordance with the provisions of Executive Order 12958, Classified National Security Information.

- * COMMERCIAL-OFF-THE-SHELF (COTS). For purposes of this order, the term COTS as it refers to hardware, software and services used by the FAA is defined below and is interchangeable with terms like "commercially available," "commercial component(s)," "commercial product(s)," and "commercial item."
- a. Any item, other than real property, that is of a type customarily used by the general public that has been sold, leased, or licensed or has been offered for sale, lease, or license to the general public.
 - b. Any item that evolved from an item described in paragraph a through advances in technology or performance that is not yet available in the commercial marketplace, but may be made available in time to satisfy the delivery requirements of a Government solicitation.
 - c. Any item that would satisfy a criterion described in paragraphs a or b above that has been modified to meet Federal Government requirements.
 - d. Installation, maintenance, repair, training, or other such services procured for support of an item described in paragraphs a through c above if the source offers such services to the general public and the Federal Government contemporaneously under similar terms and conditions and with the same work force.
 - e. Any item or service offered or sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices or that has been determined by the procuring agency to have been developed exclusively at private expense and sold in substantial quantities on a competitive basis to multiple state or local governments.

CONSOLIDATED PERSONNEL MANAGEMENT INFORMATION SYSTEM (CPMIS). An automated system comprised of five integrated subsystems used to process and record official personnel actions. The subsystems are personnel, budget, training, security, and civil rights.

CONTRACTING OFFICER. An official who has authority to enter into and/or administer contracts and make determinations or findings with respect to those contracts.

* CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE. An individual designated by a contracting officer to assist in the administrative duties of a contract after award from performance to closeout. *

CONTRACTOR EMPLOYEE. A person employed as or by a contractor, subcontractor, or consultant to the FAA.

DEFENSE CLEARANCE AND INVESTIGATIONS INDEX (DCII). An automated index of all investigations conducted by the Department of Defense (DOD) on military personnel, DOD civilian employees, and applicants.

* DUAL CITIZEN. A citizen of the United States having also citizenship in another country.

DUE PROCESS. Procedures designed to allow FAA employees, contractor employees, and applicants to respond to unfavorable information developed during personnel security investigations.

ESCORTING. A Federal or other appropriately cleared person or persons accompanying a contractor employee or other specified individual to prevent unauthorized access to FAA facilities, information, and/or resources. The escort must keep the individual(s) requiring escort in plain view at all times and must be constantly aware of the individual's actions.

FACILITY [as it applies to personnel security]. Any manned or unmanned building, structure, warehouse, appendage, storage area, utilities, and components, which when related by function and location form an operating entity owned, operated, or controlled by the FAA. *

FAA EMPLOYEE. Any person employed directly by the FAA.

FOREIGN NATIONAL. An individual who is not a citizen of the United States.

IMMIGRANT ALIEN. An individual who is lawfully admitted to the United States under an immigration visa for permanent residence.

INTERIM ACCESS AUTHORIZATION. An authorization for access to classified information granted pending completion of the required investigation.

LIMITED ACCESS AUTHORIZATION. A certification that a person is authorized to have access only to certain specified classified information which has been carefully screened by security officials for its release to that person.

LIMITED BACKGROUND INVESTIGATION (LBI). An investigation consisting of an NAC, credit search, personal interviews of subject and sources, written inquiries of

selected sources covering specific areas of a person's background during the most recent 3 years, and record searches for a total of 5 years of coverage.

LOCAL AGENCY CHECK (LAC). A check of records at state or local law enforcement agencies.

- * MINIMUM BACKGROUND INVESTIGATION (MBI). An investigation consisting of a National Agency Check and Inquiries (NACI), a credit search, telephone inquiries to follow up on written inquiries not returned, and record searches for a total of 5 years of coverage. *

NATIONAL AGENCY CHECK (NAC). An investigation consisting of searches of the following files: SII, DCII, the FBI's Identification Division, and the FBI's Records Management Division.

NATIONAL AGENCY CHECK AND INQUIRIES (NACI). An investigation consisting of an NAC and written inquiries and record searches covering specific areas of a person's background during the most recent 5 years.

- * NATIONAL AGENCY CHECK, INQUIRIES, AND CREDIT (NACIC). An investigation consisting of an NAC, written inquiries, record searches, and a credit check covering specific areas of a person's background during the most recent 5 years.

NATIONAL AGENCY CHECK, LAW ENFORCEMENT CHECKS, AND CREDIT (NACLC). An investigation consisting of an NAC, law enforcement checks, and a credit check covering specific areas of a person's background during the most recent 5 years. *

NATIONAL SECURITY. The protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs, from overt and covert attack, against or from espionage, sabotage, and subversion, and any and all illegal acts designed to weaken or destroy the United States.

NATIONAL SECURITY POSITION. A position involving Government activities concerned with the protection of the national security.

OPERATING OFFICE. A line of business, an office or service in headquarters, or a division level organization in a region or center.

PERIODIC REINVESTIGATION - SBI (SSBI-PR). An investigation updating a Single Scope Background Investigation (SBI) and consisting of personal interviews of the subject and sources, an NAC, credit search, and written inquiries and record searches covering specific areas of a person's background during the most recent 5 years.

PERIODIC REINVESTIGATION (PRI). An investigation updating a previous investigation and consisting of an NAC, credit search, personal interview of the subject, and selected record searches.

PERSONNEL SECURITY. The standards and procedures utilized to determine and document that the employment or retention in employment of an individual will promote the efficiency of the service and is clearly consistent with the interests of the national security.

PERSONNEL SECURITY ADJUDICATOR. An individual in the servicing security element (SSE) who conducts security adjudication.

PERSONNEL SECURITY COORDINATOR. An employee of an operating office assigned to coordinate personnel security functions among his or her organization, its SSE, and its Human Resource Management Division.

PERSONNEL SECURITY INVESTIGATION. An investigation conducted to aid in determining an applicant's or employee's suitability for employment, qualifications for a position, or loyalty to the United States.

PERSONNEL SECURITY OFFICER. A specifically appointed individual within an SSE who is primarily responsible for management and operation of the personnel security program.

POSITION RISK LEVEL. The designation of a position based on its public trust responsibilities and attributes as they relate to the efficiency of the service.

POSITION SENSITIVITY. The designation of a national security position based on its relative importance to the national security.

PROPRIETARY INFORMATION. In trade secret law, information in which the owner has a protectable interest. As specifically defined in the Federal Acquisition Regulation (48 CFR 3.104-3 to 5), it means information contained in a bid or proposal or otherwise submitted to the Government by a competing contractor in response to the conduct of a particular Federal agency procurement, or in an unsolicited proposal, that has been marked by the contractor as proprietary information in accordance with applicable law and regulation.

PUBLIC TRUST POSITION. A position which has the potential for action or inaction by an incumbent to affect the integrity, efficiency, or effectiveness of assigned Government activities.

* QUALITY ASSURANCE PLAN. A system that provides for a means of continuous review and oversight of a program/process to ensure (1) compliance with

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- * applicable laws and regulations; (2) the products and services of the program/process satisfy the mission of the program; and (3) the products and services are dependable and reliable. *

REIMBURSABLE SUITABILITY INVESTIGATION (RSI). An investigation conducted by OPM to resolve a suitability issue raised in a previous investigation.

- * RESOURCES [as it applies to the contractor security program]. FAA physical plants, sensitive equipment, information databases, including hardware and software, and manual records pertaining to agency mission or personnel.

RESOURCES [as it applies to the federal personnel security program]. FAA personnel, physical plants, equipment, assets, information, databases, including hardware and software, and manual records pertaining to agency mission or personnel. *

SECURITY ADJUDICATION. The determination as to whether the employment or continued employment of an individual, and the person's access to classified information, if necessary, can reasonably be expected to be clearly consistent with the interests of national security.

- * SECURITY/SUITABILITY INVESTIGATIONS INDEX (SII). An electronic database, created and maintained by OPM, of investigations conducted by OPM and other agencies as reported to OPM. *

SELECTING OFFICIAL. The supervisory official within an operating office who has the authority to decide on the selection of individuals or to propose adverse action against individuals under his/her supervisory jurisdiction.

- * SENSITIVE INFORMATION. Any information which if subject to unauthorized access, modification, loss, or misuse could adversely affect the national interest, the conduct of Federal programs, or the privacy to which individuals are entitled under Section 552a of Title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an act of Congress to be kept secret in the interest of national defense or foreign policy. Sensitive data also include proprietary data. *

SERVICING SECURITY ELEMENT (SSE). The headquarters, region, or center organizational element which is responsible for providing security services to a particular activity.

SINGLE SCOPE BACKGROUND INVESTIGATION (SBI). An investigation consisting of an NAC, birth records search, credit search, personal interviews of subject and sources, written inquiries, and record searches covering specific areas of a person's background during the most recent 10 years.

SUITABILITY. Identifiable character traits and past conduct which are sufficient to determine whether or not a given individual is likely to carry out the duties of a Federal job with appropriate efficiency and effectiveness.

- * SUITABILITY ADJUDICATION. The process of determining a person's suitability for employment with, by, or for the Federal Government, or as a contractor to the Federal Government. *

TEMPORARY CLEARANCE. An authorization for access to classified information granted for a limited period of time.

UPGRADE INVESTIGATION (UGI). An investigation consisting of an NAC, credit search, personal interviews of the subject and selected sources, and record searches covering specific areas of a person's background since the last investigation. This investigation is for movement upward in sensitivity/risk level from between 13 to 60 months of the closing date of the previous investigation.

UPDATE INVESTIGATION (UDI). An investigation consisting of the same type of coverage as a previous investigation, conducted within 13 to 60 months of the previous investigation.

APPENDIX 9. INVESTIGATING CONTRACTOR EMPLOYEES

1. GENERAL. This appendix states policy and procedures for the personnel security program as it relates to FAA contractor employees. It applies to persons employed as or by contractors, subcontractors, or consultants who have access to FAA facilities, sensitive information, and/or resources; and to other persons who have such access by agreement of the FAA. Appendix 11, Investigating Child Care Center Workers, contains procedures for investigation of persons working at FAA-sponsored child care centers.

- * 2. BACKGROUND. Many contractor employees closely support the agency's mission. Because of their FAA identification, the extent of their responsibility, and the risk levels of the positions they occupy, the FAA investigates those contractor employees who have the same level of access as FAA employees to FAA facilities, information, and resources to determine their suitability for such access. *

3. AUTHORITY TO INVESTIGATE CONTRACTOR EMPLOYEES.

a. The Department of Justice (DOJ) rendered an opinion October 1, 1979, that Federal agencies have the authority to screen contractor employees in any reasonable manner and that such screening must be consistent with due process of law. The DOJ cited from the United States Code (U.S.C.) three statutory sources of agency authority to investigate and determine the suitability of contractor employees. These authorities are:

(1) 5 U.S.C. 301. Authorizes the head of each executive or military department to "prescribe regulations for the government of [the] department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property."

(2) 44 U.S.C. 3102. Requires each Federal agency to provide for "effective controls over the creation and over the maintenance and use of records in the conduct of current business" and in cooperation with the Administrator of the General Services Administration to "promote the maintenance and security of records deemed appropriate for preservation."

(3) 5 U.S.C. 552a(e)(9) and (10). Requires that each agency establish: (1) Rules of conduct for persons involved in the design, operation, or maintenance of any system of records; and (2) appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records. The DOJ noted that U.S.C. 552a, while applicable only to systems of records containing information on individuals, does provide that agencies, consistent with their authority, shall extend the requirements of the section to Government contractors who operate such a system of records to accomplish agency functions.

b. OMB Circular A-130, Management of Federal Information Resources, requires Federal agencies to establish personnel security policies for Federal and contractor personnel as needed to ensure an adequate level of security for Federal automated information systems. These policies should include requirements for screening all individuals participating in the design, development, operation, or maintenance of sensitive applications, as well as those persons having access to sensitive data.

4. REQUIREMENTS.

a. Except as stated in this appendix, the personnel security program requirements and procedures applicable to FAA employees shall also apply to contractor employees who have comparable exposure to the agency's facilities, information, and/or resources. Any contractor employee or applicant for contractor employment prevented from having access to FAA facilities, sensitive information, or resources because of information revealed in a background investigation shall be given an opportunity to respond for the record to any information used as a basis to deny such access, in accordance with paragraph 11 of this appendix. The servicing security element (SSE) is responsible for adjudicating the suitability of contractor employees.

b. Contracts requiring contractor employees to have access to classified information shall be prepared and processed according to the procedures contained in Appendix 10, National Industrial Security Program (NISP).

- * 5. QUALITY ASSURANCE. The Office of Civil Aviation Security Policy and Planning, FAA Security Division (ACP-300), has established a Quality Assurance Plan (refer to appendix 13) in coordination with the Office of Civil Aviation Security Operations, Investigations Division (ACO-300), for the continuous review and oversight of the Contract Security Program to ensure an effective security posture at FAA. This plan establishes review procedures for all pre- and post-award procurement actions with security implications including statements of work (SOW), amendments, modifications, and changes, etc., prior to inclusion in contracts. This plan also establishes procedures for the continuous review and oversight of all contractor personnel security actions to include designation of position risk levels, submission of required security forms, initiation of appropriate background investigations, suitability and security determinations, etc., to ensure compliance with this order and the authorities identified herein.

6. RESPONSIBILITIES. The following provides general duties and responsibilities for those FAA employees and/or offices involved in the FAA's Contractor Security Program. Those employees are contracting officers, logistics management specialists (LMS) (including those under Airway Facilities divisions), real estate contracting officers (RECO), contracting officers' technical representatives (COTR), operating offices and SSE's. In carrying out their responsibilities, these FAA employees need to be aware that the Federal Government has four primary expectations of the individuals with whom it contracts. Those expectations can impact the ability of the FAA employees involved in the Contractor Security Program to fulfill their responsibilities. Those expectations are that – contractors and contractor employees will familiarize themselves with FAA's

- * security regulations that pertain to the duties they will be performing; each contractor employee bears sole responsibility for maintaining continued eligibility for his or her position; contractors and contractor employees report orally or in writing any information that raises a question about the suitability of any contractor employee, directly to the COTR, LMS, or RECO; and must satisfactorily complete the contracted work and/or delivery of the item(s) purchased.

a. Contracting Officer shall ensure that:

- (1) All new, modified, or renewed contracts, purchase orders, SOW's, and Memorandums of Agreement (MOA) containing work, services, or other duties to be performed or provided by contractor employees have been coordinated with the SSE for review and determination of applicable personnel security investigative requirements prior to solicitation. Additionally, the SSE is notified whenever the status of a contract, purchase order, MOA, or contractor employee changes (i.e., replaced, defaulted, terminated, etc.) impacting personnel security requirements and/or access to FAA facilities, sensitive information, and/or resources.
- (2) Whenever the SSE has determined that a contract, purchase order, or MOA requires investigation of any contractor employee, the contract contains language sufficient to achieve this objective in an orderly and expeditious manner and to require the contractor to take appropriate action, including removal of an employee from working on an FAA contract if it is determined that that person is unsuitable.
- (3) Position risk level designations determined by the operating office, as outlined in appendix 3, are forwarded to the SSE on FAA Form 1600-77, "Contractor Position Risk/Sensitivity Level Designation Record," for review and approval prior to implementation. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6b, Contractor Personnel Suitability Requirements.)
- (4) Contractors and contractor employees (including prospective contractor employees) send all completed security forms and information for each person subject to investigation directly to the COTR, LMS, or RECO in a sealed envelope for submission to the SSE no later than 30 days after the contract, purchase order, MOA, or lease agreement award date as required by the applicable contract. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6c, Contractor Personnel Suitability Requirements.)
- (5) Contractor employees hired subsequent to the award date provide the required security forms to the COTR, LMS, or RECO within 30 days of the hire date. Contractor employees hired subsequent to the award date shall not begin work under any FAA contract, purchase order, MOA, or lease agreement or have access to FAA facilities, sensitive information, and/or resources, until authorized to do so by the SSE in accordance with paragraph 6a(7) and the applicable requirements outlined in paragraph 8 of this appendix.
- (6) All FAA Forms 1600-77; any completed security packages submitted by proposed contractor employees; the name of the contracting company; contract number; duty location; identification of the funding line of business (LOB); a list of the names of

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- * all proposed contractor employees; the appropriation code; and the names of the contracting officer and COTR are provided to the SSE within 5 days of the contract award date by the COTR.

(7) Contractor employees do not work in a high-, moderate-, or low-risk position, unless the SSE has received and reviewed all security forms necessary to conduct any required investigation, resolved any issues, and authorized them to work, unless otherwise specified in this appendix. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6e, Contractor Personnel Suitability Requirements.)

(8) The SSE is notified of any information which raises a question about the suitability of a contractor employee. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-7, Qualifications of Employees.)

(9) Appropriate action is taken when it is determined that a contractor employee is unsuitable for access to FAA facilities, sensitive information, and/or resources. Appropriate action may include removal of such employees from working on any aspect of the FAA contract, purchase order, or MOA. (Reference Fast Toolset, Clauses & Prescriptions, Clause 3.13-7, Qualifications of Employees.)

(10) The contractor is provided all applicable security regulations.

b. Logistics management specialists (LMS) (including those under Airway Facilities divisions) shall ensure that:

(1) All new, modified, or renewed contracts, purchase orders, SOW's, and MOA's for which they are responsible that contain work, services, or other duties to be performed or provided by contractor employees have been coordinated with the SSE for review and determination of applicable personnel security investigative requirements prior to solicitation. Additionally, the SSE is notified whenever the status of a contract, purchase order, MOA, or contractor employee changes impacting personnel security requirements and/or access to FAA facilities, sensitive information, and/or resources.

(2) Whenever the SSE has determined that a contract, purchase order, or MOA requires investigation of any contractor employee, the contract contains language sufficient to achieve this objective in an orderly and expeditious manner and to require the contractor to take appropriate action, including removal of an employee from working on an FAA contract if it is determined that that person is unsuitable.

(3) Position risk level designations determined by the operating office, as outlined in appendix 3, are forwarded to the SSE on FAA Form 1600-77, "Contractor Position Risk/Sensitivity Level Designation Record," for review and approval prior to implementation. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6b, Contractor Personnel Suitability Requirements.)

(4) Contractors and contractor employees (including prospective contractor employees) send all completed security forms and information for each person subject to

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- * investigation directly to the LMS in a sealed envelope for submission to the SSE no later than 30 days after the contract, purchase order, MOA, or lease agreement award date as required by the applicable contract. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6c, Contractor Personnel Suitability Requirements.)

(5) Contractor employees hired subsequent to the award date provide the required security forms to the LMS within 30 days of the hire date. Contractor employees hired subsequent to the award date shall not begin work under any FAA contract, purchase order, MOA, or lease agreement or have access to FAA facilities, sensitive information, and/or resources, until authorized to do so by the SSE in accordance with paragraph 6b(6) and the applicable requirements outlined in paragraph 8 of this appendix.

(6) Contractor employees do not work in a high-, moderate-, or low-risk position, unless the SSE has received and reviewed all security forms necessary to conduct any required investigation, resolved any issues, and authorized them to work, unless otherwise specified in this appendix. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6e, Contractor Personnel Suitability Requirements.)

(7) Form 1600-77; any completed security packages submitted by proposed contractor employees; the name of the contracting company; contract number; duty location; identification of the funding line of business (LOB); the appropriation code; a list of the names of all proposed contractor employees; and the name of the responsible LMS are provided to the SSE within 5 days of the contract award date.

(8) The SSE is notified of any information which raises a question about the suitability of a contractor employee. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-7, Qualifications of Employees.)

(9) Appropriate action is taken when it is determined that a contractor employee is unsuitable for access to FAA facilities, sensitive information, and/or resources. Appropriate action may include removal of such employees from working on any aspect of the FAA contract, purchase order, or MOA. (Reference Fast Toolset, Clauses & Prescriptions, Clause 3.13-7, Qualifications of Employees.)

(10) The contractor is provided all applicable security regulations.

c. Real estate contracting officers (RECO) shall ensure that:

(1) All new, modified, or renewal lease agreements containing janitorial, construction, maintenance, property management, and/or repair work have been coordinated with the SSE for review and determination of applicable personnel security investigative requirements prior to issuance. Additionally, the SSE is notified whenever the status of a lease agreement or contractor employee changes impacting personnel security requirements and/or access to FAA-leased facilities, FAA sensitive information, and/or FAA resources.

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(2) Whenever the SSE has determined that a lease agreement requires investigation of any contractor employee, the agreement contains language sufficient to achieve this objective in an orderly and expeditious manner and to require the contractor to take appropriate action, including removal of an employee from working pursuant to the FAA lease agreement if it is determined that that person is unsuitable.

(3) The SSE is notified whenever the FAA enters into a lease agreement containing janitorial, construction, maintenance, property management, and/or repair work, when the status of such a lease agreement changes (i.e., replaced, defaulted, terminated, etc.), or whenever a contractor employee has completed work pursuant to such a lease agreement or leaves his or her position.

(4) Position risk level designations determined by the operating office, as outlined in appendix 3, are forwarded to the SSE on FAA Form 1600-77, "Contractor Position Risk/Sensitivity Level Designation Record," for review and approval prior to implementation.

(5) Contractor employees (including prospective contractor employees) send all completed security forms and information for each person subject to investigation directly to the RECO in a sealed envelope for submission to the SSE no later than 30 days after the lease commencement date.

(6) Contractor employees hired subsequent to the lease commencement date provide the required security forms to the RECO within 30 days of the hire date. Contractor employees hired subsequent to the lease commencement date shall not begin work under any FAA lease agreement or have access to FAA facilities, sensitive information, and/or resources, until authorized to do so by the SSE in accordance with paragraph 6c(8) and the applicable requirements outlined in paragraph 8 of this appendix.

(7) Form 1600-77; the name of the contracting company; contract number; duty location; identification of the funding line of business (LOB); the appropriation code; a list of the names of all proposed contractor employees; and the name of the responsible RECO are provided to the SSE within 5 days of the lease commencement date.

(8) Contractor employees do not work in a high-, moderate-, or low-risk position, unless the SSE has received and reviewed all security forms necessary to conduct any required investigation, resolved any issues, and authorized them to work.

(9) The SSE is notified of any information which raises a question about the suitability of a contractor employee.

(10) Appropriate action is taken when it is determined that a contractor employee is unsuitable for access to FAA facilities, sensitive information, and/or resources. Appropriate action may include removal of such employees from working pursuant to any FAA lease agreement.

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d. Contracting officer's technical representative (COTR) shall ensure that:

(1) The SSE is notified whenever a contractor employee has completed work under a contract, purchase order, or MOA or leaves his or her position.

(2) Contractor employees (including prospective contractor employees) send all completed security forms and information for each person subject to investigation directly to the COTR in a sealed envelope for submission to the SSE no later than 30 days after the award date.

(3) Contractor employees hired subsequent to the award date provide the required security forms to the COTR within 30 days of the hire date. Contractor employees hired subsequent to the award date shall not begin work under any FAA contract, purchase order, or MOA or have access to FAA facilities, sensitive information, and/or resources, until authorized to do so by the SSE in accordance with paragraph 6d(5) and the applicable requirements outlined in paragraph 8 of this appendix.

(4) Form 1600-77; the name of the contracting company; contract number; duty location; identification of the funding line of business (LOB); appropriate code; a list of the names of all proposed contractor employees; and the names of the contracting officer and COTR are provided to the SSE within 5 days of the contract award date.

(5) A contractor employee is not allowed to work in a high-, moderate-, or low-risk position, unless the SSE has received and reviewed all security forms necessary to conduct any required investigation, resolved any issues, and authorized him or her to work. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6e, Contractor Personnel Suitability Requirements.)

(6) The SSE is notified of any information which raises a question about the suitability of a contractor employee.

(7) Appropriate action is taken when it is determined that a contractor employee is unsuitable for access to FAA facilities, sensitive information, and/or resources. Appropriate action may include excluding the contractor employee from working on any aspect of the FAA contract, purchase order, or MOA.

(8) The contractor is provided all applicable security regulations.

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e. Operating offices shall:

(1) Coordinate with the SSE on all procurement requests which may involve contractors and/or contractor employees having access to FAA facilities, sensitive information, or resources. Included are situations where operating offices exercise authority to contract for or purchase services directly without significant involvement on the part of a separate contracting office. They shall also coordinate with the SSE on any proposed agreements with outside parties that would result in non-FAA personnel having

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such access. The purpose of this coordination is to determine whether or not any investigation requirements would apply to the contractor employees or other persons having access.

* (2) Ensure that whenever the SSE has determined that persons granted access to an FAA facility, FAA sensitive information, and/or FAA resources under a contract, purchase order, MOA, or lease agreement would require investigation, the contract, purchase order, MOA, or lease agreement contains language sufficient to achieve this objective and to require the contractor to take appropriate action including removal of an employee from working on an FAA contract, purchase order, MOA or lease agreement if it is determined that that person is unsuitable.

(3) Ensure that position risk level designations are determined as outlined in appendix 3, recorded on FAA Form 1600-77, and forwarded to the contracting office for submission to and review and approval by the SSE prior to implementation.

(4) Ensure that contractor employees do not work in high-, moderate-, or low-risk positions, unless the SSE has received and reviewed all security forms necessary to conduct any required investigation, resolved any issues, and authorized him or her to work. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-6e, Contractor Personnel Suitability Requirements.)

(5) Notify the SSE and the contracting officer of any questionable conduct which might affect the suitability of a contractor employee. (Reference Fast Toolset Clauses & Prescriptions, Clause 3.13-7, Qualifications of Employees.)

(6) Ensure that whenever the SSE has determined that a contractor employee will not require an investigation that the contractor employee is escorted at all times by an FAA employee or by contract personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, while the contractor employee has access to FAA facilities, sensitive information, and/or resources.

(7) Provide a listing of all contractor employees working in each facility to the SSE quarterly and upon request.

(8) Ensure that all contractor employees receive necessary security briefings, including, but not limited to, access controls, identification media, protection of FAA sensitive and proprietary information, systems security.

f. Servicing Security Elements (SSE) shall:

(1) Determine, in consultation with operating offices, contracting officers, LMS's, and RECO's which contracts, purchase orders, SOW's, MOA's, and lease agreements require investigation of contractors and/or contractor employees.

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* (2) Assist contracting officers, LMS's, and RECO's in developing appropriate personnel security clauses for contracts, purchase orders, SOW's, MOA's, and lease agreements which contain work, services, or other duties to be performed or provided by contractor employees.

(3) Review all contracts, purchase orders, SOW's, MOA's, and lease agreements containing work, services, or other duties to be performed or provided by contractor employees to ensure appropriate language for investigation of proposed contractor employees is included.

(4) Ensure that contracts, purchase orders, MOA's, and lease agreements requiring contractor employees to have access to classified information are prepared and processed as required by appendix 10.

(5) Review FAA Forms 1600-77 to ensure risk/sensitivity level designations are correct and appropriate, and approve or disapprove as required.

(6) Receive and review security forms for completeness, identify and resolve any issues and/or areas of concern, authorize contractor employees to begin work as appropriate, and initiate required investigations.

(7) Initiate and adjudicate required personnel security investigations on those contractor employees who perform or provide services under national contracts, and enter the results into the investigations tracking system (ITS).

(8) Advise the contracting officer, COTR, LMS, or RECO, in writing, when an initial determination is made that a contractor employee may begin work under an FAA contract, purchase order, MOA, or lease agreement prior to investigation and upon making the final suitability determination as appropriate.

(9) Evaluate the results of personnel security investigations on contractor employees and adjudicate suitability in accordance with the personnel suitability standards and criteria set forth in chapter 4 of this order and in consultation with other offices on a need-to-know basis. *

(10) Conduct or arrange for additional investigation when necessary to resolve suitability issues.

(11) Provide due process to contractor employees prior to taking any unfavorable action based on the results of an investigation. Due process shall consist of notifying the person of the specific reasons for the proposed action and affording the person an opportunity to respond.

* (12) Notify the contracting officer, COTR, LMS, or RECO in writing of any contractor employee found unsuitable for access to FAA facilities, sensitive information, and/or resources and request action to deny such access. *

* (13) Consult with the contracting officer, COTR, LMS, or RECO and direct appropriate action to be taken whenever any information which raises a question about a contractor employee's suitability is received. *

(14) Maintain records on contractor employee personnel security investigations in an automated information system which the Office of Civil Aviation Security Operations (ACO) has approved for this purpose and maintain personnel security files, as necessary, on contractor employees.

(15) Provide the contracting officer with all DOT/FAA security directives that the contractor needs to fulfill security responsibilities under the contract.

* (16) Ensure that operating offices provide contractor employees necessary security briefings, including access controls, identification media, protection of FAA sensitive and proprietary information, systems security, etc.

(17) Conduct semi-annual and unscheduled quality assurance reviews to ensure compliance with this order. *

7. DESIGNATING POSITION RISK LEVELS.

* a. The SSE, in consultation with the operating office, shall review procurement requests, contract specifications, MOA's, and lease agreements to approve the risk levels determined by the operating office for contractor employee positions. The policies specified in chapter 5, Position Sensitivity and Risk Level Designation and Controls, shall apply in designating positions in terms of suitability and access to automated information systems (AIS). To ensure uniformity and consistency, use the risk level designation process outlined in appendix 3.

b. The operating office may designate contractor employee positions in groups or by category rather than creating records for each individual position. *

c. In order to ensure uniformity throughout FAA for positions common in more than one region and/or center, ACO-300 may provide specific direction to SSE's regarding designations of particular position categories or groups.

8. INVESTIGATIVE REQUIREMENTS FOR CONTRACTOR EMPLOYEES.

Contractor employees having comparable exposure to FAA facilities, sensitive information, and/or resources shall be subject to the same investigative requirements, based on the risk level of their positions, as FAA employees except for the low risk positions identified below.

* a. Positions in critical areas. The minimum investigative requirement for contractor employees in these positions having comparable exposure to FAA facilities, sensitive information, and/or resources shall be a National Agency Check and Inquiries (NACI) unless otherwise specified. The categories of positions affected can include AIS, *

* weapons carrying, air traffic control, communications, and those located in or having access to sensitive areas and security offices. The SSE may not reduce the level of background investigation to meet this requirement.

(1) At a minimum, contractor employees may not perform the duties of the positions until the SSE has received and reviewed all necessary investigative forms, resolved any issues, and authorized them to begin work.

(2) Whenever possible, the investigation shall be completed and favorably adjudicated before the employee is allowed to perform the duties of the position.

(3) The SSE may grant approval for a contractor employee to begin work prior to completion and adjudication of the investigation, provided it adheres to the requirements stipulated in paragraph 8a(1) and has considered the nature of the FAA facility and the sensitivity of the information and resources to which the contractor employee will have access. In giving this approval, the SSE may also limit the facilities, information, and/or resources to which the employee has access pending completion of the investigation. The SSE will provide written notification of approval for a contractor employee to begin work under an FAA contract, purchase order, MOA, or lease agreement to the COTR, RECO, or LMS, in accordance with chapter 6, paragraphs 610 and 611.

(4) Fiduciary support positions. The minimum investigative requirement for contractor employees that support FAA positions with fiduciary responsibilities is a National Agency Check, Inquiries, and Credit (NACIC). The FAA positions within this category can include, but are not limited to, contracting officers, contract specialists, cashiers, and other positions whose major responsibility involves the authority or ability to obligate, control, or expend public money or items of monetary value. Contractor employees shall not provide support to FAA fiduciary positions until all necessary investigative forms have been submitted to and reviewed by the SSE, any issues have been resolved, a credit check has been conducted, and the SSE has authorized the contractor employee to begin work in accordance with chapter 6, paragraph 611 of this order. Credit checks shall be conducted once every 5 years thereafter or upon renewal of the contract, purchase order, or MOA, whichever is greater.

(5) AIS positions (supply contracts, contractors who provide computer hardware, software, and/or services including commercial-off-the-shelf (COTS) computer hardware, software, and/or services). The investigative requirements for these contractors may vary depending on the length of the contract, extent of the access required, and the sensitivity level of the position. When determining whether to conduct any investigation of these persons, the SSE and the operating office shall consider the length of the contract, the nature and extent of access to sensitive FAA information, resources and/or AIS, and whether such access will be escorted or unescorted. If the SSE determines that no investigation is required based on the requirements set forth in paragraph 8e of this appendix, the contractor employees must be escorted at all times by FAA personnel when on FAA premises and having access to FAA facilities, sensitive information, and/or resources. The FAA escort must keep the escort-required contractor

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- * employee in plain view at all times and must be constantly aware of the contractor employee's actions. When contractor personnel are utilized as an escort, the minimum investigative requirement for these contractor personnel shall be a NACI. (Reference Fast Toolset, Clauses & Prescriptions, Clauses 2.9.12, Security, and 3.13.2.2, Contractor Personnel Security Program.)

b. High-risk positions. All contractor employees in these positions shall be subject to an initial Background Investigation (BI) and reinvestigation every 5 years or upon renewal of the contract, not to exceed 5 years. Whenever possible, this investigation should be completed and favorably adjudicated before the employee is allowed to perform the duties of the position.

(1) The SSE may grant approval for a contractor employee to begin work prior to completion and adjudication of the investigation, provided it has considered the nature of the FAA facility(ies) and the sensitivity of the information and resources to which the employee will have access. In giving this approval, the SSE may also limit the facilities, sensitive information, and/or resources to which the employee has access pending completion of the investigation. The SSE will provide written notification of approval to the COTR, RECO, or LMS in accordance with chapter 6, paragraphs 610 and 611.

(2) If the BI cannot be completed before an employee must begin work on an FAA contract, purchase order, or MOA, the SSE shall ensure all investigative forms have been thoroughly reviewed, any issues have been resolved, and a fingerprint check with the Federal Bureau of Investigation's (FBI) Identification Division or an appropriate law enforcement agency check is completed as soon as possible.

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(3) Except as stated in this paragraph, the specific investigative requirements for high-risk positions stated in paragraph 606 of this order also apply to contractor employees.

c. Moderate-risk positions. All contractor employees in these positions shall be subject to at least an NACI investigation.

- * (1) At a minimum, a contractor employee may not perform the duties of a moderate-risk position until the SSE has received and reviewed all necessary investigative forms, resolved any issues, and authorized him or her to begin work.

(2) Whenever possible, the investigation shall be completed and favorably adjudicated before the employee is allowed to perform the duties of the position.

(3) The SSE may grant approval for the employee to begin work prior to completion and adjudication of the investigation, provided it has considered the nature of the FAA facility(ies) and the sensitivity of the information and resources to which the employee will have access. In giving this approval, the SSE may also limit the facilities, information, and/or resources to which the employee has access pending completion of the investigation. The SSE will provide a written notification of approval to the COTR, RECO, or LMS in accordance with chapter 6, paragraphs 610 and 611.

*

(4) Except as stated in this paragraph, the specific investigative requirements for moderate-risk positions stated in paragraph 607 of this order also apply to contractor employees.

- * d. Low-risk positions. Except as otherwise specified, the minimum investigative requirement for contractor employees in low-risk positions is a fingerprint check.

(1) At a minimum, contractor employees may not perform the duties of the positions until the SSE has received and reviewed all necessary investigative forms, resolved any issues, and authorized him or her to begin work.

(2) The SSE will provide written notification of approval for a contractor employee to begin work on an FAA contract, in accordance with chapter 6, paragraphs 610 and 611.

e. Temporary positions. Contractor employees in low-risk positions that are intermittent, seasonal, per diem, or temporary and who do not work on an FAA contract in excess of 180 days in either a single assignment or a series of assignments may be exempt from any investigative requirement. The categories of positions may include COTS contractors and supply contractors. This exemption does not preclude investigating the person under the normal investigative requirements if it is determined that the contractor employees will require access to sensitive FAA information, resources and AIS, and/or unescorted access to FAA facilities.

(1) At a minimum, a contractor employee may not perform the duties of a temporary position until all necessary investigative forms have been submitted to and reviewed by the SSE, all issues and/or areas of concern have been resolved, and the SSE has authorized the contractor employee to begin work. The SSE shall provide written notification of this authorization to the COTR, LMS, or RECO in accordance with chapter 6, paragraphs 610 and 611.

(2) Except as stated in this paragraph, the specific investigative requirements for low-risk positions stated in chapter 6, paragraph 610 of this order also apply to contractor employees.

(3) Escort Requirement. All contractor employees whose access will not exceed 180 days and who are exempt from any investigative requirements must be escorted at all times by FAA personnel, or by contractor personnel who have been appropriately investigated, favorably adjudicated and authorized to provide escort, when on FAA premises and having access to FAA facilities, sensitive information, and/or resources. The escort must keep the escort-required contractor employee in plain view at all times and must be constantly aware of the contractor employee's actions. (Reference Fast Toolset, Clauses & Prescriptions, Clause 2.9.12, Security, and 3.13.2.2, Contractor Personnel Security Program.)

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* (4) When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI. *

f. Construction workers. Investigative requirements for construction workers will vary depending on the location and type of construction. In determining whether or not to conduct any investigation of these employees, the SSE and the operating office should consider those factors and the extent of the contractor employee's access, particularly unescorted access, to FAA facilities, sensitive information, and/or resources.

* (1) Many of these employees will be exempt as temporary personnel as outlined in paragraph 8e of this appendix and paragraph 610 of this order. Construction workers employed longer than 180 days shall have, at a minimum, a fingerprint check.

(2) All construction workers whose access will not exceed 180 days and who are exempt from any investigative requirements must be escorted at all times by FAA personnel or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when on FAA premises and having access to FAA facilities, sensitive information, and/or resources. The escort must keep the escort-required construction worker in plain view at all times and must be constantly aware of the construction worker's actions. When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI. (Reference Fast Toolset, Clauses & Prescriptions, Clauses 2.9.12, Security, and 3.13.2.2, Contractor Personnel Security Program.)

g. Delivery personnel and repair technicians. Delivery personnel and repair technicians will be investigated or exempt from investigation as dictated by the length of their contract and extent of access to FAA facilities, sensitive information, and/or resources. When it is determined that such individuals are temporary and exempt from investigation, they will be escorted at all times by FAA personnel or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when on FAA premises and having access to FAA facilities, sensitive information, and/or resources. The escort must keep the escort-required individual in plain view at all times and must be constantly aware of the individual's actions. When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI. (Reference Fast Toolset, Clauses & Prescriptions, Clauses 2.9.12, Security, and 3.13.2.2, Contractor Personnel Security Program.)

h. Contract janitorial, construction, maintenance, property management, and repair workers in leased facilities.

(1) GSA-contracted services to include janitorial, construction, maintenance, property management, and repair in facilities occupied by FAA. When FAA occupies a GSA-leased facility and GSA has contracted for janitorial, construction, maintenance, property management, or repair work, GSA is responsible for conducting background investigations on these workers unless they are exempt in accordance with paragraph 8e *

* of this appendix. GSA will make the suitability determinations and provide written notification listing the names of the cleared workers to FAA. When FAA occupies a GSA-leased facility and has delegated authority to contract for these services, FAA shall be responsible for conducting background investigations on these workers unless they are exempt in accordance with paragraph 8e of this appendix. FAA shall make the suitability determinations.

(a) The minimum investigative requirement shall be a fingerprint check.

(b) Workers who are exempt in accordance with paragraph 8e of this appendix must be escorted at all times by FAA employees or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when within FAA-leased facilities. The escort must keep escort-required workers in plain view at all times and must be constantly aware of their actions. When contractor personnel are used as escorts, the minimum investigative requirement shall be an NACI.

(2) When GSA leases from a lessor a facility for occupancy by FAA that includes janitorial, construction, maintenance, property management, or repair services, the lessor (owner or owner's representative) will provide the information necessary to conduct background investigations on the contract workers providing those services to GSA. GSA will make suitability determinations and provide written notification listing the names of the cleared workers to FAA. GSA may investigate or exempt from investigation such workers as dictated by the length of their contract and extent of access to the facilities leased by FAA, FAA sensitive information, and/or resources.

(a) The minimum investigative requirement shall be a fingerprint check.

(b) If employment of these workers will not exceed 180 days and they are exempt from any investigative requirement in accordance with paragraph 8e of this appendix, these workers must be escorted at all times by FAA personnel or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when within FAA-leased facilities and having access to FAA sensitive information and/or resources. The escort must keep escort-required workers in plain view at all times and must be constantly aware of their actions. When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI.

(3) If FAA occupies leased facilities but directly contracts for janitorial, construction, maintenance, property management, or repair work, FAA shall be responsible for conducting background investigations and make the suitability determinations on such workers who have access to FAA facilities, sensitive information, and/or resources in excess of 180 days in accordance with paragraph 8d of this appendix.

(a) The minimum investigative requirement shall be a fingerprint check.

* (b) Workers who are exempt in accordance with paragraph 8e of this appendix must be escorted at all times by FAA employees or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when within FAA-leased facilities. The escort must keep escort-required workers in plain view at all times and must be constantly aware of their actions. When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI.

(4) When FAA leases from the lessor a facility that includes janitorial, construction, maintenance, property management, or repair services, the lessor (owner or owner's representative) shall ensure the contract workers providing these services submit all required security forms and any requested information to the FAA within 30 days of the lease commencement date. The FAA shall initiate required background investigations as appropriate and shall make the suitability determinations. FAA will investigate or exempt from investigation such workers as dictated by the length of their contract and extent of access to the facilities leased by FAA, FAA sensitive information, and/or resources.

(a) The minimum investigative requirement shall be a fingerprint check.

(b) If employment of these workers will not exceed 180 days and they are exempt from any investigative requirement in accordance with paragraph 8e of this appendix, these workers must be escorted at all times by FAA personnel or by contractor personnel who have been appropriately investigated, favorably adjudicated, and authorized to provide escort, when within FAA-leased facilities and having access to FAA sensitive information and/or resources. The escort must keep escort-required workers in plain view at all times and must be constantly aware of their actions. When contractor personnel are utilized as escorts, the minimum investigative requirement for these contractor personnel shall be an NACI.

i. Contractor personnel requiring access to classified information. When contractor employees require access to classified information and DOD investigates them under the National Industrial Security Program, as stated in appendix 10, the SSE is not required to initiate any additional investigation.

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j. Previous Investigations. The provisions of Chapter 7, Standards and Procedures for Using Previous Investigations, also apply to contractor employees.

* 9. REINVESTIGATIONS. Reinvestigations for all contractors and contractor employees will be conducted on a frequency basis specified in paragraph 8 of this appendix commensurate with the designated risk level of the position.

a. Contractors and contractor employees are required to submit the required security forms to the SSE within 30 days of the reinvestigation due date.

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b. If the required security forms are not received by the SSE within 30 days after the reinvestigation due date, the SSE will notify the contracting officer. The contracting officer shall suspend the affected contractor employee's access until such time as the required security forms are received.

10. INITIATING INVESTIGATIONS.

a. The contracting office has the primary responsibility for ensuring that required, completed security forms for investigation of contractor employees are submitted to the SSE prior to allowing the contractor employees access to FAA facilities, information, and/or resources. The operating office shall assist the contracting office as necessary.

b. Specific forms required to initiate personnel security investigations:

(1) For all contractor employee positions (low-, moderate-, and high-risk) requiring investigation, two FD-258, FBI Fingerprint Chart, and one Standard Form (SF) 85P, Questionnaire for Public Trust Positions, are required.

(2) For those positions requiring only a fingerprint check, two FD-258's are required.

(3) The SSE may also require submission of other forms as needed to comply with Office of Personnel Management (OPM) requirements. As necessary, ACO-300 shall transmit to the SSE's information about additional forms or information required to initiate personnel security investigations on contractor employees.

c. Due to the sensitive nature of the forms required to conduct personnel security investigations and Privacy Act requirements, contractors should submit completed security forms directly to the COTR in a sealed envelope. These forms shall be accompanied by a list identifying each submission and providing notification to the CO. (Reference Fast Toolset, Clauses & Prescriptions, Clause 3.13-6, Contractor Personnel Suitability Requirements.)

d. When only a fingerprint check is required, the SSE may initiate this check directly with the FBI or through OPM.

e. The SSE may initiate the required personnel security investigations on contractors and contractor employees with OPM or other designated agencies providing this service. ACO may also establish procedures for SSE's to conduct the required investigations on contractors and contractor employees whenever deemed appropriate.

f. Allotments of funds must be made to regions, centers, and headquarters to pay for personnel security investigations.

(1) Each operating office shall arrange to pay the costs for personnel security investigations on those contractor employees working under contracts for which it is responsible, unless a specific allotment has been made to the SSE for that purpose.

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(2) The operating office responsible for payment shall provide the SSE with the accounting code information necessary to have the costs charged appropriately. This requirement does not preclude recovering investigation costs from contractors.

11. ADJUDICATING INVESTIGATIONS.

* a. The SSE shall adjudicate all reports of investigation on contractor employees to determine their suitability to work under FAA contracts, purchase orders, MOA's, or lease agreements with access to FAA facilities, sensitive information, and/or resources. In those cases where the SSE believes that information developed during the course of an investigation might result in an unfavorable suitability determination, it shall consult with the contracting officer, COTR, LMS, or RECO and any office with a need-to-know.

b. If after receipt of a completed report of investigation, the SSE determines that additional investigative work is required to make a suitability determination, the SSE shall follow the criteria and procedures outlined in paragraph 304 of this order.

c. The SSE shall apply the same suitability standards and criteria to adjudicate personnel security investigations for contractor employees as used in the adjudication of comparable investigations conducted on FAA applicants and employees as stated in paragraph 401 of this order.

d. The SSE shall provide contractor employees due process prior to making an unfavorable suitability determination based on information provided in a report of investigation. The FAA shall deny a contractor or contractor employee access to its facilities, sensitive information, and/or resources until due process has been appropriately completed.

(1) The SSE may provide due process either orally or in writing. The SSE shall clearly explain the unfavorable information and provide the affected contractor employee an opportunity to respond within a reasonable amount of time of not more than 30 days from the date of the due process notification.

(2) The SSE will communicate directly with the affected contractor employee when providing due process to protect the affected contractor employee's rights under the Privacy Act.

(3) The SSE shall then consider any information the employee has provided within the prescribed timeframe before making a final suitability determination. The FAA does not have to give the employee any additional opportunity to respond to the decision.

(4) The SSE will make a suitability determination based on the information available if the contractor employee does not respond within the prescribed timeframe.

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e. The SSE shall notify the contracting officer, COTR, LMS, or RECO, in writing, of all unfavorable suitability determinations. The contracting officer, COTR, LMS, or RECO shall then notify the contractor to remove the employee as otherwise objectionable from performance under the contract, purchase order, MOA, or lease agreement, or to take other action as the SSE directs. For example the SSE may deny the person access to FAA facilities, sensitive information, and/or resources, but may still allow him or her to work at another location.

f. Neither the SSE nor any other FAA employee shall disclose to a contractor or other contractor employees information contained in any personnel security investigation on a contractor employee or the specific reason(s) for any suitability determination.

12. FOREIGN NATIONALS AND DUAL CITIZENSHIP.

a. In general, foreign nationals may work as FAA contractor employees under unclassified contracts, purchase orders, MOA's, and lease agreements and may have access to FAA facilities, information, and/or resources under other agreements to which the FAA is a party. In any situation where the operating office and/or the SSE determines that it is in the best interest of the FAA to restrict access or work under a contract, purchase order, MOA, or lease agreement to United States citizens only, the appropriate contract or other agreement shall specify that restriction. In determining whether or not to apply this restriction in a given situation, the contracting officer, COTR, LMS, RECO, and operating office shall consider the nature and extent of access, particularly in regard to sensitive or proprietary information. The contracting and operating offices shall determine whether to continue with a contract, purchase order, MOA, or lease agreement if a foreign national is found to be unsuitable. (Reference Fast Toolset, Clauses & Prescriptions, Clause 3.13-8, Foreign Nationals as Contractor Employees.)

b. In general, dual citizenship should not impact a contractor or contractor employee's suitability for employment on FAA contracts. Dual citizenship may impact a security determination as it relates to access to classified national security information under the adjudicative guidelines and as referenced in appendix 10 of this order.

13. RECORDS ON CONTRACTOR EMPLOYEES. Records, whether electronic or hard copy, established in accordance with this paragraph contain sensitive information and Privacy Act-protected information and may contain classified information. All FAA personnel shall protect these records at all times during handling, transmittal, storage, and release. The provisions of paragraph 305c of this order also apply to personnel security records on contractor employees.

a. The SSE shall enter a record into an automated information system approved by ACO on all contractor employees on whom a personnel security investigation is initiated. The SSE shall also enter a record on any employee to whom DOD has granted a security clearance for work under an FAA contract, purchase order, MOA, or lease agreement. The contractor employee information in the approved system shall be available to all

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SSE's and shall serve as the primary means by which an SSE can determine if a particular contractor employee has been investigated.

* b. SSE's shall establish personnel security files (PSF) for contractor employees when there are reports of investigation or other personnel security records warranting retention. SSE's may use paragraph 305a of this order as a guide regarding contents of a PSF. All PSF's shall be maintained for as long as the contractor employees are working under an FAA contract, purchase order, MOA, or lease agreement. The SSE's shall retain PSF's on all terminated contractor employees as outlined in paragraph 305b of this order.

c. SSE's shall provide information to operating offices, facilities, contracting offices, COTR's, LMS's, and RECO's as to which contractor employees are authorized access to FAA facilities, sensitive information, and/or resources, as appropriate.

d. SSE's shall provide contractor employees an opportunity to review their PSF upon request. Contractor employees may also, in writing, authorize a representative to review their PSF. When complying with a request for a PSF review, the SSE shall follow the same procedures as specified in paragraph 305d of this order.

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APPENDIX 10. NATIONAL INDUSTRIAL SECURITY PROGRAM

1. GENERAL. This appendix states policy and procedures for implementing the National Industrial Security Program (NISP) at the FAA. These policies and procedures apply whenever contractors, contractor employees, consultants, or other persons (hereafter referred to as contractor employees) performing work for or under the direction of the FAA require access to classified information in order to perform their duties.

2. BACKGROUND.

* a. Certain information must be protected and controlled through a system of classification in the interest of the national security to protect our citizens, democratic institutions, and participation within the community of nations. The unauthorized disclosure of such information can cause irreparable damage to the national security and loss of human life. *

b. Executive Order (EO)12829 established the NISP on January 6, 1993. The National Security Council is responsible for providing overall policy direction for the NISP, and the President has designated the Secretary of Defense as the NISP Executive Agent. The Director, Information Security Oversight Office (ISOO), is responsible for implementing and monitoring the NISP and for issuing implementing directives that shall be binding on agencies. By agreement between DOT and the Department of Defense (DOD), DOT authorizes DOD to act for and on behalf of DOT in providing security services for the protection of classified information that DOT releases to contractors, contractor employees, and consultants.

c. When acting as a contracting agency, DOT has the authority and responsibility and performs the functions specified for a user agency in the latest editions of the National Industrial Security Program Operating Manual (NISPOM) and the Industrial Security Regulation (ISR), both of which are issued by DOD. DOD grants facility clearances to contractors as needed and grants security clearances to contractor employees when necessary for access to classified information.

* 3. AUTHORITY.

a. E.O. 12829, establishes an NISP to safeguard Federal Government classified information that is released to contractors and provides for the protection of information classified pursuant to E.O. 12958, Classified National Security Information, and the Atomic Energy Act of 1954.

b. DOD Directive 5200.2, DOD Personnel Security Program, dated April 9, 1999, updates the policy and responsibilities changes to E.O. 12958 and E.O. 12968, *

- * Access to Classified Information. The directive prescribes that "the objective of any [contractor] personnel security program is that . . . contractor [employees] assigned to and retained in sensitive positions in which they could potentially damage national security are and remain reliable and trustworthy, and [that] there is no reasonable basis for doubting their allegiance to the United States." The directive continues authorization for the publication of DOD Directive 5200.2-R, Personnel Security Program, which established uniform common adjudicative standards for contractor personnel security investigations.

c. DOD Directive 5220.22-M, National Industrial Security Program Operating Manual (NISPOM), January 1995, establishes investigative requirements pertaining to contractor employees and prescribes for uniform common adjudicative standards paralleling the requirements and standards for Federal Government employees set forth in E.O. 12968. NISPOM authorizes the FAA to restrict or otherwise control contractor employee access to classified information in the interest of national security. The requirements set forth in this manual apply to the release of classified information during all phases of the contracting process to include: bidding, negotiation, award, performance, termination, and the licensing or grant process with or under the control of the FAA.

4. REQUIREMENTS.

a. The FAA will implement the requirements and procedures set forth in E.O. 12829 and the NISPOM, as necessary.

b. No contractor employee shall be granted access to classified information by the FAA unless that employee possesses a need-to-know and has been determined to be eligible by DOD in accordance with DOD Directive 5200.2-R.

*

5. CLASSIFIED CONTRACT PROCESSING PROCEDURES.

a. Whenever a proposed contract, purchase order, or consulting agreement would require persons not employed by the U.S. Government to have access to classified information, the operating office shall include that information in a statement with the procurement request. The operating office shall also prepare a draft DD Form 254, Contract Security Classification Specification, and submit it with the request. The DD 254 shall be prepared as specified in the ISR or other DOD regulations or instructions. The operating office shall coordinate the draft DD 254 with the servicing security element (SSE) to ensure appropriate classification.

b. The contracting office shall review all proposed procurement actions to determine if the FAA will need to share classified information with a contractor during precontract negotiations. If that is the case, the contracting office shall advise the SSE and provide it with a list of prospective bidders. The contracting office shall coordinate with the appropriate Defense Security Service (DSS) office to determine if any prospective bidders require processing for a facility security clearance in accordance with the

NISPOM, ISR, and/or other applicable DOD regulations. The contracting office responsible for taking action required by DOD shall issue a DD 254, signed by the contracting officer, for each request for proposal, invitation for bid, request for quotation, or other solicitation.

c. The contracting office shall issue a completed DD 254 with the award of each classified contract, including follow-on contracts, and shall provide a copy of the form to the SSE.

d. Each classified contract or consulting agreement shall contain a security clause specifying everything that a contractor needs to do to ensure that the FAA and DSS can process all contractor employees for any needed facility or security clearances in accordance with requirements and procedures stated in the NISPOM, the ISR, and/or other applicable DOD regulations. The contract shall also specify that requests for classified visits shall be in accordance with the NISPOM and shall be certified by the contracting office prior to forwarding to the organization to be visited.

e. DSS will work directly with contractor employees to grant facility clearances and security clearances.

f. The contracting office shall notify the SSE and DSS whenever the status of a contract changes (i.e., replaced, defaulted, or terminated).

6. ANNUAL REVIEW OF DD 254. Annually on the anniversary date of the contract, or more often if required by the ISR or other DOD regulation, the operating office shall review the DD 254 for accuracy and currency. If changes are necessary, the operating office and the contracting office, in coordination with the SSE, shall issue a revised DD 254, preparing it as specified in the ISR or other DOD regulation. If no change is necessary, the operating office shall notify all holders of the DD 254 that it is current in all respects.

7. VISIT REQUESTS. Whenever a contractor employee or consultant is required to visit an FAA facility and will be required to have access to classified information, the contracting office shall complete, certify, and process a visit request as specified in the NISPOM, the ISR, or other DOD regulation. The contracting office shall provide an information copy of a certified visit request to the SSE for the facility to be visited.

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APPENDIX 13. QUALITY ASSURANCE PLAN

1. INTRODUCTION. The objective of a Quality Assurance (QA) Plan is to ensure that the procedures and processes of a specified program lend themselves to accomplishing the mission(s) of the program. A QA Plan provides for a means of continuous review and oversight to ensure that the products and/or services performed, produced, and/or managed by a specified program appropriately satisfy the mission(s). Additionally, the QA Plan ensures that the services and/or products meet established standards and are consistent.

2. PROGRAM MISSION STATEMENT. This QA Plan applies to the FAA Contractor Security Program. This plan will ensure that employment of entities and/or persons on FAA contracts will promote the efficiency of FAA and is in the interest of national security.

3. RESPONSIBILITIES. The following identifies the responsibilities for the implementation and use of this plan as it applies to FAA Order 1600.1D, Personnel Security Program, Appendix 9, Investigating Contractor Employees.

a. Office of Civil Aviation Security Operations (ACO).

(1) Review all contracts, purchase orders, statements of work (SOW), Memorandums of Agreement (MOA), and lease agreements to ensure the appropriate security clauses are included.

(2) Ensure that position risk/sensitivity designations are appropriate, approved and documented on FAA Form 1600-77, Contractor Position Risk/Sensitivity Level Designation Record.

(3) Ensure all background investigations are initiated and appropriately adjudicated, as required.

(4) Maintain a computerized database of all contractor employees who have been investigated and their current status. This database should include, at a minimum, the name, social security number, date and place of birth, position sensitivity/risk level, type of background investigation conducted, and date of suitability determination.

(5) Provide the SSE's a listing of all current contractor employees who have been investigated by duty location upon request.

(6) Conduct semi-annual audits of FAA contracts, purchase orders, developmental SOW's, MOA's, and lease agreements to ensure that, where appropriate, applicable security clauses are included.

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9/6/00

* (7) Utilize the In-Service Review Checklist Template, Section 7.3, Personnel Security, when conducting audits. [Reference Fast, Toolset, In-Service Review/ Development Readiness, In-Service Review Checklist, Section 7.3.]

b. Office of Acquisitions (ASU), Regional Logistics Divisions, including Airway Facilities Divisions, and Office of Acquisition Services at the Aeronautical Center.

(1) Develop and maintain a computerized database of all FAA contracts, purchase orders, lease agreements, and MOA's that contain work, services, or other duties to be performed or provided by contractor employees. This database should include, at a minimum:

(a) contract, purchase order, MOA, or lease agreement title, if different from the company, entity, agency, or business name;

(b) name of company, entity, agency, or business providing the services and/or products specified in the contract, purchase order, MOA, or lease agreement;

(c) contract, purchase order, MOA, and lease agreement number;

(d) operating office;

(e) identification of the contracting officer, contracting officer's technical representative (COTR), logistics management specialist, or real estate contracting officer;

(f) starting and ending dates;

(g) number of contractor employees;

(h) and identification of the Servicing Security Element (SSE).

(2) Provide a listing of all current FAA contracts, purchase orders, lease agreements, and MOA's containing work, services, and/or duties to be performed or provided by contractor employees to the SSE's quarterly and upon request.

(3) Develop and conduct training applicable to the Contractor Security Program, in coordination and partnership with ACS, contracting officers, COTR's, and operating offices.

(4) Ensure all security clauses are included in all contracts, purchase orders, lease agreements, developmental SOW's, and MOA's, where applicable.

(5) Review all contracts, purchase orders, lease agreements, and MOA's for/with AIS, weapon carrying, janitorial, fiduciary, air traffic control, and communications positions for the past fiscal year to verify that the necessary security requirements are included in these contracts.

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(6) Review a representative number of not less than 20% of other contracts, purchase orders, lease agreements, and MOA's for the past fiscal year to verify that the necessary security requirements are included.

c. Office of Civil Aviation Security Policy and Planning (ACP).

(1) Develop and maintain FAA orders applicable to the Contractor Security Program in coordination with ACO, ASU, the SSE's and other FAA elements as appropriate.

(2) Assist ASU, Regional Logistics Divisions, including Airway Facilities Divisions, Office of Acquisition Services at the Aeronautical Center, and ACO in developing and conducting training applicable to the Contractor Security Program.

4. AUDIT CRITERIA. ACO is responsible for the implementation of FAA Order 1600.1D, Personnel Security Program, as it applies to contractor employees. The SSE's will conduct scheduled and unscheduled audits of the Contractor Security Program within ASU, Regional Logistics Divisions, and the Office of Acquisition Services at the Aeronautical Center to determine and ensure compliance with this order. These audits will also ensure the integrity of the ASU database by verifying that the data entered into the database are accurate.

a. Prior to conducting the audit, the SSE's will request and obtain the following lists:

(1) All current FAA contracts, purchase orders, lease agreements, and MOA's containing contractor employee requirements from the affected ASU, Regional Logistics Divisions, including the Airway Facilities Divisions, or Office of Acquisition Services at the Aeronautical Center.

(2) All contractor employees at the duty location under review.

(3) All contractor employees at the duty location under review who have been investigated.

b. SSE's will review 20% of all contracts, purchase orders, MOA's, and lease agreements containing contractor employee requirements to ensure the following:

(1) Applicable security clauses are included.

(2) Position risk/sensitivity designations are prepared on FAA Form 1600-77 and approved.

(3) Procedures are established and applied for the review of security packages submitted by contractor employees for completeness.

(4) Necessary pre-employment reviews (SSE reviews of investigative forms and credit checks, where required) are completed, and written authorization is given prior to contractor employees performing the duties of the position.

*

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 - (5) Background investigations are conducted on contractor employees, as required.
 - (6) Open investigative issues are identified, documented, and resolved prior to making suitability determinations.

c. SSE's will review 20% of all contractor employee personnel security folders (PSF) and compare the data against the list of contractor employees who have been investigated to ensure the following:

- (1) Position sensitivity/risk levels are appropriate for the duties of the position.
- (2) Position sensitivity/risk levels recorded on FAA Form 1600-77 match the position sensitivity/risk levels in the database.
- (3) Background investigations conducted are appropriate for the position sensitivity/risk level of the positions.

*

U.S. Department
of Transportation

**Federal Aviation
Administration**

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